

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

PAN AMERICAN AIRWAYS CORP.,

Plaintiff/Counter-Defendant

v.

ROBERT E. BARNES

Defendant/Counter-Plaintiff

Case No. 04-CV-10515JLT

**STATEMENT OF UNDISPUTED MATERIAL FACTS IN SUPPORT OF
DEFENDANT'S MOTION FOR PARTIAL SUMMARY JUDGMENT.**

In support for his Motion for Partial Summary Judgment on Counts I and II of Plaintiff's second amended complaint, Defendant, Robert Barnes, hereby states the following undisputed material facts:

1. During Mr. Barnes' employment with Plaintiff corporation, David Fink was the president of plaintiff corporation. Defendant's Deposition of Plaintiff ("PanAm Deposition")
2. Mr. Barnes reported to the president of Pan Am, David Fink. (Id. 8, 14,15)
3. Dave Fink had daily status meetings at which maintenance issues including engine storage were discussed. (Id. 8,9)
4. Pan Am found out about the perceived improper storage through a letter written by Paul Hubbard, who was employed with the Federal Aviation Administration. (Id. 10)

5. Determination of airworthiness of aircraft and engines was Plaintiff's responsibility
Deposition of Mr. Hubbard ("Hubbard Deposition" , 26).
6. After Mr. Barnes had left Plaintiff's employment In July of 2003 and before Decen : of
2003, Plaintiff's airplane identified by its tail number PA363, had been flying num as
times commercially , with engines attached that are subject to this lawsuit. Hubbar
Deposition, Exhibit Two, Exhibit B ¶ 5.
7. In order for Pan Am to fly an airplane in commerce, Plaintiff corporation must
determine that the airplane is airworthy. (Id. 25)
8. Mr. Barnes, as Vice president, was not one of the required five "key people" that h to
be listed with the FAA (Pan Am Deposition 10)
9. Mr. Barnes was not the only person responsible for oversight and management of
Plaintiff's Maintenance. (Id. 14,33).
10. Mr. Barnes' duties as Vice President of Maintenance were not to maintain or inspe
aircraft or engines. (Id. 14).
11. Mr. Barnes' responsibility was not to perform maintenance himself. Inspections we :o
be performed by mechanics. (id. 19).
12. Executives from Director of Maintenance level and higher, including the Vice Pres nt
of Maintenance do not work on engines. (Id. 14).
13. As of today, Mr. Barnes is the only named defendant in this action. (Id. 33).

Respectfully submitted,

Dated: September 20, 2005

Peter Piel

Peter Piel
Law Office of Peter Piel
800 Turnpike Street, Suite 300
North Andover, MA 01845
978-794-5513
BBO # 639070